

Before the
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In The Matter Of:

Digital Performance Rights in Sound
Recordings and Ephemeral Recordings

Docket No. 2005-1 CRB DTRA

ORIGINAL

**YAHOO!'S MOTION TO AMEND TESTIMONY OF ROBERT ROBACK TO REPLACE
INCORRECT EXHIBIT 8**

DiMA and Yahoo! Inc. respectfully move to amend the testimony of Robert Roback for the purpose of correcting an exhibit which, as revealed in discovery, contains an inaccuracy.

On November 1, 2006, during the deposition of Mr. Roback, it became evident that Exhibit 8 to his written rebuttal testimony contained computational errors, and subsequent investigation by counsel reveals that it did not represent a final document vetted by Yahoo!'s financial officers.

DiMA and Yahoo! therefore seek to withdraw the prior exhibit and replace it with the proper, correct document. This changes also necessitates a small clarification in paragraph 19 of Mr. Roback's statement (where Exhibit 8 is referenced) in order to make clear that the new Exhibit 8 provides final 2005 numbers, as opposed to the projected figures discussed in Mr. Roback's original testimony, which was filed before the conclusion of 2005. Counsel for SoundExchange has informed counsel for DiMA that they do not oppose the motion.

